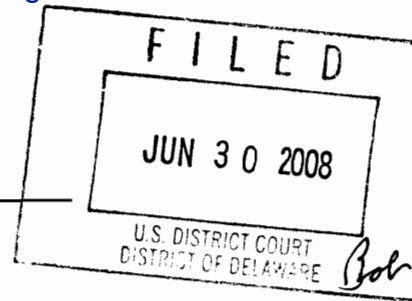


UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT DISTRICT OF DELAWARE



NELSON LORA PENA
PETITIONER,

V.

UNITED STATES OF AMERICA
RESPONDENT.

)
)
) Case No. 05-47 JJF
)
)
)
) Motion for Sentence Adjustment
)
)
)

Now comes Nelson Lora Pena Defendant/petitioner, and a permanent resident alien was convicted of resist interfere and is presently serving his time at Northeast Ohio Correction Center Because of his status as a deportable alien, Petitioner was ineligible to receive the rewards which are offered for residential drug abuse program (DAP). Also petitioner cannot receive a timely Half-Way House-release. This places the Defendant/petitioner to serve sentence under circumstances more severe than those facing citizens under similar circumstances. "Collateral Consequences" are not part of the judgment of conviction and are not imposed upon the defendant for the purpose of punishing him. The issue presented by this Case is whether unusual harsh Collateral Consequences that are visited by Law on a Defendant as a result of his conviction may provide a basis for mitigating the penal sanction that would otherwise be required by the sentencing guideline.

Collateral Consequences are not part of the judgment of conviction and are not imposed upon the Defendant for the purpose of punishing him. The effect of such Consequences, However, are as punitive as the term of incarceration. This is particular true in this Case where the Collateral Consequences is DEPORTATION and where a

ATTACHMENT

U.S. V. RESTEREPO. cite as 802 F. SUPP. 781 (E.D.N.Y.1992)

Solely because of his status as a deportable alien, the Defendant Sentence will be served under circumstances that are more severe than those facing a United States Citizen, who are equally culpable and who receive the identical guideline sentence, the Defendant/ Petitioner will not be eligible to serve his sentence in minimum security facility nor a portion of the last ten (10) percent of his sentence in a half-way House or other community custody programs including home confinement, and if he participated in (DAP) he will not receive the time reduction either, Defendant/ Petitioner has a right to receive a reduction of sentence not to exceed Six (6) Months.

CONCLUSION

Defendant/Petitioner feel that he is entitled to at least the Six (6) Months mentioned above reduction of sentence under the RESTEPO V. U.S. 802 SUPP. 781 (E.D.N.Y. (1992)).

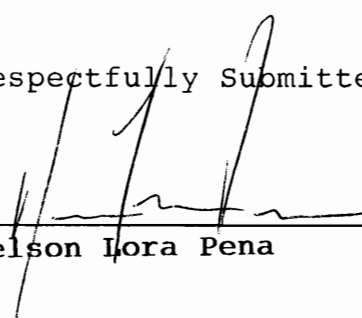
Petitioner is not a learned man of the Law and therefor asks this Honorable Court respectfully to read this motion with leniency afforded to such unlearned man of the Law.

PRAYER

Defendant/petitioner Respectfully requesting from this Honorable Court to grant him an Order for the requested adjustment of his Sentence.

Respectfully Submitted

Executed on: June 25/2008
NORTHEAST OHIO CORRECTIONAL CENTER
2240 Hubbard Rd, Youngstown, Ohio
44505.

by 
Nelson Lora Pena

Consequences of that consequence is a longer period on imprisonment under more severe conditions than that would apply to a UNITED STATES CITIZENS convicted of the same offence.

CERTIFICATE OF FILING AND SERVICE

Pursuant to the principles of Houston V. Lack. 487 U.S. 226.101. L.E.D. 2d.245, 108. S.ct.(1988). and Supreme Court Rule 29.2 the attached document were filed with this Court on this 23 day of June 2008 and served on the counsel of the opposing party at the address below of the Assistant United states Attorney, and the original with two copies to the clerk of this Court and by the way of depositing it into the U.S. Mail Box at 2240 Hubbard Road in Youngstown, Ohio 44505

C.C. TO: Assistant United States Attorney

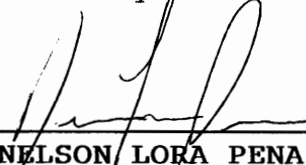
At. _____

I, declare under the penalty of perjury that all the information above are true and correct.

Respectfully Submitted

Executed On: June / 23 / 2008

By



NELSON/ LORA PENA
N.E.O.C.C.
2240 Hubbard Rd
Youngstown, Ohio 44505

Nelson Lora Pena
#03883-070
N.E.O.C.C.
2240 Hubbard Rd
Youngstown, Ohio 44505

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26 JUN 2008 PM YOUNGSTOWN, OH 445

26 JUN 2008



U.S. District Court
U.S. Courthouse
844 King Street/1-Box 18
Wilmington, Delaware 19801

STAY
S.M.